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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY JAY FLEMING,

Defendant and Appellant.

E064011

(Super.Ct.No. RIF1406349)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Richard Todd Fields,
Judge. Affirmed.

Patrick J. Hennessey, Jr., under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Jeffrey Fleming pled guilty to first degree robbery of an
inhabited dwelling house while acting in concert with two or more persons. (Count 1;

Pen. Code, §§ 211, 213, subd. (a)(1)(A).)¹ Defendant additionally admitted he committed the offense in count 1 while a principle was armed with a firearm (§ 12022, subd. (a)(1)) and that he had suffered a prior strike conviction (§§ 667, subds. (c), (e)(2)(A), 1170.12, subd. (c)(2)(A)). In accordance with his plea agreement, the court sentenced defendant to an aggregate term of 12 years' imprisonment, consisting of the following: the midterm of six years on count 1, doubled pursuant to the prior strike conviction, and an additional, consecutive year on the firearm enhancement which the court struck pursuant to section 1385.

After defendant filed a notice of appeal, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts, and requesting this court to undertake a review of the entire record. We affirm.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

I. FACTUAL AND PROCEDURAL HISTORY²

On May 7, 2014, the police responded to the victim's home regarding a reported home invasion robbery. The victim informed the police a woman knocked on his door. He answered the door and the woman asked for help. After the victim refused her request and attempted to shut the door, defendant, wielding a shotgun, pushed the door open and forcibly entered the victim's residence with the woman and two other individuals, another man and woman.

One of the men struck the victim in the face. The perpetrators then forced the victim to his room where the woman tied him up. Defendant provided the shotgun to the other man. The perpetrators then ransacked the victim's home for about an hour. The group left the victim's home in the victim's vehicle with several thousand dollars of the victim's property. A number of items stolen from the victim were later recovered at the woman's home.

On December 4, 2014, the People charged defendant by information with first degree robbery of an inhabited dwelling house while acting in concert with two or more persons (count 1; §§ 211, 213, subd. (a)(1)(A)), carjacking (count 2; § 215, subd. (a)),

² After the court's initial objection, the parties stipulated the preliminary hearing transcript would provide the factual basis for the plea. We take our recitation of the factual history of the case from the preliminary hearing transcript. The better approach for establishing a factual basis for a plea "is for a stipulation by counsel . . . to be accompanied by reference to a police report [citation], reference to the probation report or preliminary hearing transcript [citation], or reference to grand jury testimony [citation]." (*People v. Holmes* (2004) 32 Cal.4th 432, 441, fn. 8; accord, *People v. Willard* (2007) 154 Cal.App.4th 1329, 1334.)

violating the personal liberty of the victim (count 3; § 236), and receiving stolen property (count 4; § 496, subd. (a)). The People additionally alleged that during the commission of the count 1 offense, one or more of the principles were personally armed with a firearm (§ 12022, subd. (a)(1)) and that defendant personally used a firearm (§§ 12022.53, subd. (b), 1192.7, subd. (c)(8)).

The People further alleged defendant had suffered a prior prison term (§ 667.5, subd. (b)), a prior serious felony conviction (§ 667, subd. (a)), and two prior strike convictions (§§ 667, subds. (c), (e)(2)(A), 1170.12, subd. (c)(2)(A)). On May 7, 2015, defendant pled guilty and admitted certain enhancement allegations in accordance with a plea agreement as recounted, *ante*. At sentencing, the remaining counts and allegations were dismissed and/or stricken.

II. DISCUSSION

We offered defendant an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

III. DISPOSITION

The judgment is affirmed.

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KING

J.

We concur:

HOLLENHORST
Acting P. J.

McKINSTER
J.